

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RYAN EDWARD SMITH, SR., §
R.E.S., By Next Friend, §
D.A.S. By Next Friend, and §
D.D.S. , By Next Friend, §

Plaintiffs, §
§
v. § CIVIL ACTION H-18-3470

TEXAS DEPARTMENT OF CHILD PROTECTIVE §
SERVICES, *et al.*, §

Defendants. §

ORDER

Pending before the court is the Magistrate Judge’s Memorandum and Recommendation (“M&R”) dated July 11, 2019. Dkt. 83. In the M&R, the Magistrate Judge recommends that the motions to dismiss filed by defendant Trung Tran (Dkts. 4, 15, 50), defendant Chad Bradshaw (Dkts. 5, 16, 51), defendant Brian Hrach (Dkt. 67), defendants Kelly Gabler and Joseph Weinpel (incorrectly listed as Joseph Gabler) (Dkt. 69), defendant Venette Westovern (Dkt. 75), defendants Macy and Timothy Hubbard (Dkt. 82), and defendants Annette Denton, Brandice Haller, Leigh Mizell, Stephanie Sammons, and Texas Department of Family and Protective Service (listed by plaintiff at times as CPS or Child Protective Services) (Dkt. 18, 52) be GRANTED. She also recommends that the motion for default judgment against Freeport Police Department, Captain, Raymond Garivey, Kristy Mercado, Ernesto Rodriguez, Detective Jones, Officer Panigua, Detective Sergeant Juanita Cardoza, and Bill Helfand filed by plaintiff Ryan Edward Smith (Dkt. 53) be

DENIED. And, she recommends that the motion for sanctions filed by defendants Bradshaw, Tran, and Hrach (Dkt. 73) be DENIED.

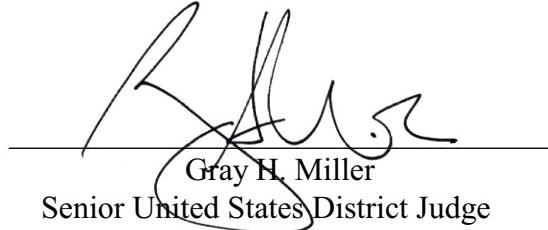
Objections to the M&R were due by July 25, and no party filed objections. If no timely objection is made to a Magistrate Judge's recommendation on a dispositive issue, the "court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), Advisory Comm. Note (1983). For nondispositive matters, the court may set aside the Magistrate Judge's order only to the extent that it is "clearly erroneous or contrary to law." Fed. R. Civ. P. 72(a).

The court has reviewed the M&R, relevant documents in the record, and the applicable law, and finds no clear error. Accordingly, the M&R (Dkt. 83) is **ADOPTED IN FULL**. The motions to dismiss at docket entries 4, 5, 15, 16, 18, 50, 51, 52, 67, 69, 75, and 82 are **GRANTED**, and the claims asserted against the following defendants are **DISMISSED WITH PREJUDICE**: Trung Tran, Chad Bradshaw, Annette Denton, Brandice Haller, Leigh Mizell, Stephanie Sammons, Texas Department of Family and Protective Services, Brian Hrach, Kelly Gabler, Joseph Weinpel (incorrectly listed as Joseph Gabler), Venette Westoven, Macy Hubbard, and Timothy Hubbard. The motion for default against Freeport Police Department, Captain Raymond Garivey, Kristy Mercado, Ernesto Rodriguez, Detective Jones, Officer Panigua, Detective Sergeant Juanita Cardoza, and Bill Helfand, who were not named as defendants in the live pleading, is **DENIED**. The motion for sanctions filed by defendants Bradshaw, Tran, and Trach is also **DENIED**.

As recommended by the Magistrate Judge, no further amendments to the pleadings will be permitted. To the extent Smith named defendants in his complaint whose claims are not dismissed

above, he has either not served them or failed to prosecute his claims against them. Accordingly, any claims potentially asserted against other defendants are **DISMISSED WITHOUT PREJUDICE**. The court will enter final judgment concurrently with this order.

Signed at Houston, Texas on July 30, 2019.



Gray H. Miller
Senior United States District Judge